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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/517,103

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Myriam Amielh-Caprioglio

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BRIARCLIFF MANOR, NY 10510

EXAMINER

RIES, LAURIE ANNE

ART UNIT

PAPER NUMBER

2176

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/517,103	<b>Applicant(s)</b> AMIELH-CAPRIOGLIO ET AL.	
	<b>Examiner</b> LAURIE RIES	<b>Art Unit</b> 2176	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/7/04, 7/26/05</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is responsive to communications: IDS, filed 7 December 2004, IDS, filed 26 July 2005, and Original Application, filed 7 December 2004.
2. Claims 1-8 are pending. Claims 1, 4, 5, 6, 7, and 8 are independent claims.

### ***Information Disclosure Statement***

3. The information disclosure statements (IDS) submitted on 7 December 2004 and 26 July 2005 were filed after the mailing date of the Original Application on 7 December 2004. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-4 and 8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

**As per independent claim 1**, the language of the claim describes a method of filtering a bitstream comprising elementary units having a time position, and first timing data indicative of said time positions which is not tied to a particular machine or apparatus (See *In re Bilski*, 545 F.3d 943, 88 USPQ2d 1385 (Fed. Cir. 2008)). To qualify as a statutory process or method, a claim should positively recite the statutory class (i.e. the product or machine) to which it is tied; for example, by identifying the apparatus that accomplishes the method or process step, or the claim should explicitly recite the particular machine or apparatus, or recite a step that inherently involves the use of a particular machine or apparatus.

**Claims 2 and 3** are dependent upon claim 1, and do not add any limitations that would render the claim statutory under 35 USC 101. Therefore, these claims are likewise rejected.

**As per independent claim 4**, the language of these claims merely describes a device for filtering a bitstream comprising elementary units having a time position, and first timing data indicative of said time positions. As such, this raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a

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technological art, environment or machine to form the basis of statutory subject matter under 35 USC 101. Thus, the “*device*” is computer software *per se*

One technique for satisfying the requirements of 35 USC 101 is to claim code residing in memory (i.e., hardware).

**As per independent claim 8**, this claim is directed to a filtered bitstream obtained by implementing a filtering method as claimed in claim 1 or 2. As such, the claim is directed to functional descriptive material that is not tied to a technological art, environment or machine, which would result in a practical application to form the basis of statutory subject matter under 35 USC 101. One technique for satisfying the requirements of 35 USC 101 is to claim the code residing in memory and executing to implement the filtering method that produces the bitstream.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 and 4-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Zenoni (U.S. Publication 2002/0131511 A1).

**As per independent claim 1**, Zenoni discloses a method of filtering a bitstream comprising elementary units having a time position, and first timing data indicative of said time positions (See Zenoni, paragraphs 0007 and 0038, describing filtering a video stream including generating a time code signal that corresponds to video signal addresses of the video stream), said method using a syntactical description of said bitstream, said syntactical description comprising elements describing said elementary units and containing said first timing data, a semantic description of said bitstream, said semantic description comprising second timing data and characterizing data relating to one or more elementary units, said second timing data being indicative of the time positions of said elementary units, at least a user specification (See Zenoni, paragraphs 0007, 0010, and 0014, describing identifying various segments within a video stream, the segments including beginning and ending points indicative of timing data within the video stream and describing various contents or semantic descriptions within the video stream, such as advertisements, weather, etc).

Zenoni also discloses searching in said semantic description for the characterizing data that match said user specification to identify matching elementary units (See Zenoni, paragraph 0038, describing a recognition/filter device to compare and filter data tags and markers with regard to user preferences or specifications).

Zenoni also discloses deriving time positions for said matching elementary units from said second timing data, and using said first timing data to locate in said syntactical description the elements corresponding to said time positions (See Zenoni, paragraph 0044, describing reading a time code from the video stream to locate various contents within the video stream).

Zenoni also discloses generating a filtered syntactical description in which the located elements are removed and generating a filtered bitstream from said filtered syntactical description (See Zenoni, paragraph 0044, describing producing a filtered output video stream where identified contents have been removed, the filtered video stream being presented on a display or recording device for real-time or near real-time viewing).

**As per independent claim 4**, Zenoni discloses a device for filtering a bitstream comprising elementary units having a time position, and first timing data indicative of said time positions (See Zenoni, paragraphs 0007 and 0038, describing filtering a video stream including generating a time code signal that corresponds to video signal addresses of the video stream). Independent claim 4 additionally incorporates substantially similar subject matter as that of independent claim 1 above, and is additionally rejected along the same rationale as used in the rejection of claim 1.

**As per independent claim 5**, Zenoni discloses a transmission system comprising a server device, a transmission channel and a user device, said user device being intended to receive from said server device via said transmission channel (See Zenoni, Figure 3). Independent claim 5 additionally incorporates substantially similar

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subject matter as that of independent claim 1 above, and is additionally rejected along the same rationale as used in the rejection of claim 1.

**As per independent claim 6**, Zenoni discloses a transmission system comprising a server device, a transmission channel and a user device, said user device having means for sending a demand for a content to said server device via said transmission channel, said demand including a user specification, and said server device having means for filtering a bitstream corresponding to the demanded content according to said user specification and for sending the filtered bitstream to said user device via said transmission channel (See Zenoni, Figure 3, and paragraph 0038, describing a recognition/filter device to compare and filter data tags and markers within a video stream with regard to user preferences or specifications for the content). Independent claim 6 additionally incorporates substantially similar subject matter as that of independent claim 1 above, and is additionally rejected along the same rationale as used in the rejection of claim 1.

**As per independent claim 7**, Zenoni discloses a program comprising instructions for implementing a method of filtering a bitstream as claimed in claim 1, when said program is executed by a processor (See Zenoni, Figure 11 and paragraph 0056).

**As per independent claim 8**, Zenoni discloses a filtered bitstream obtained by implementing a filtering method as claimed in claim 1 or 2 (See Zenoni, paragraph 0014, describing a video stream input to a filtering system or method).



***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zenoni (U.S. Publication 2002/0131511 A1), as applied to claim 1 above, and further in view of Pfeiffer ("TV Anytime as an Application Scenario for MPEG-7"), hereafter referred to as Pfeiffer.

**As per dependent claims 2 and 3**, Zenoni teaches the limitations of claim 1 as described above. Zenoni also teaches that the syntactical description is an XML document (See Zenoni, paragraphs 0033-0034). Zenoni does not teach expressly that the filtered syntactical description is generated by applying to said syntactical description a parametric transformation defined in an XSL style sheet having said time positions as input parameter, however, Pfeiffer teaches this limitation (See Pfeiffer, Page 91, Figure 2, describing an XSL style sheet including time position input parameters). Pfeiffer also teaches that the semantic description is compliant with the MPEG-7 standard (See Pfeiffer, Page 90, Section 3, describing adhering to the MPEG-

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7 standard), and said second timing data are contained in <MediaTime>; elements (See Pfeiffer, Page 90, Section 4, and Page 91, Figure 2, describing timing data contained within <MediaTime> tags). Zenoni and Pfeiffer are analogous art because they are from the same field of endeavor of providing filtered television content to users. At the time of the invention it would have been obvious to one of ordinary skill in the art to include the syntactical description generated by applying to said syntactical description a parametric transformation defined in an XSL style sheet including adherence to the MPEG-7 standard and containing second timing data in <MediaTime> elements of Pfeiffer with the method of filtering a bitstream of Zenoni. The motivation for doing so would have been to use a generic schema definition, such as the MPEG-7 schema definition, to define an application's specific schema, and to enable time-exact linking into audio-visual material through the use of the MediaTime element (See Pfeiffer, Page 90, Sections 3 and 4). Therefore, it would have been obvious to combine Pfeiffer with Zenoni for the benefit of using a generic schema definition, such as the MPEG-7 schema definition, to define an application's specific schema, and to enable time-exact linking into audio-visual material through the use of the MediaTime element, to obtain the invention as specified in claims 2 and 3.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- DeKock discloses application modeling for signal processing systems.
- Yap (U.S. Publication 2001/0052130 A1) discloses a multi-processor DVR.
- Kii (U.S. Publication 2002/0099661 A1) discloses a service offering system which includes a recording element for recording a unique identifier to each of a plurality of storage media issued.
- Fuller (U.S. Patent 6,877,134 B1) discloses an integrated data and real-time metadata capture system and method.
- Bergman (U.S. Patent 6,564,263 B1) discloses a multimedia content description network.
- Tabatabai (U.S. Patent 7,203,692 B2) discloses transcoding between content data and description data.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laurie Ries whose telephone number is (571) 272-4095. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Hutton, can be reached at (571) 272-4137.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laurie Ries/  
Primary Examiner  
Technology Center 2100  
18 February 2009